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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,152	06/30/2003	Hakansson Bo	1275	8148

7590 10/31/2005

DAVID J. SERBIN  
LAW OFFICE OF DAVID J. SERBIN  
1217 KING STREET  
ALEXANDRIA, VA 22314

EXAMINER
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WILKINS III, HARRY D

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,152

Applicant(s)

BO ET AL.

Examiner

Harry D. Wilkins, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/30/03, 7/7/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of group I in the reply filed on 28 September 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Priority***

2. The claim for priority to provisional application no. 60/393,384, filed 5 July 2002, in the declaration is noted. However, Applicant is required to amend the specification to specifically recite the priority claim as the first sentence of the specification.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juda (US 3,124,520) in view of Wanngard (US 5,419,818).

Wanngard teaches (see col. 1, lines 18-37, col. 3, line 34 to col. 4, line 44 and col 6, lines 9-64) a process for producing alkali metal chlorate in an electrolytic cell (4) including electrolyzing the electrolyte solution and transferring the electrolyzed solution to a chlorate reactor (5).

Wanngard teach that the electrolytic cell (4) is an undivided electrolytic cell.

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Thus, Wanngard fails to teach the claimed cell which was divided by a cation selective membrane.

Juda et al teach (see figures 2, col. 5, lines 13-42 and col. 7, line 26 to col. 8, line 17) a cell divided by a cation exchange membrane into anode and cathode compartments, with a gas diffusion cathode. The process included introducing a sodium chloride solution into the anode chamber and an oxygen-containing gas into the cathode chamber, electrolyzing the solution to produce chlorine gas dissolved in the water (i.e.-electrolyzed solution) in the anolyte chamber and sodium hydroxide in the catholyte chamber. The advantage of using the divided cell with oxygen gas diffusion cathode was to prevent chloride ions transferring to the catholyte and also increasing current efficiency. One of ordinary skill in the art would also have immediately realized the additional advantage that the reaction products (anions) produced at the anode would have been prevented from reaching the cathode, thereby avoiding undesirable side reactions.

Therefore, it would have been obvious to one of ordinary skill in the art to have used the divided electrolysis cell as taught by Juda for the undivided electrolysis cell taught by Wanngard because of increased current efficiency and the prevention of product anions at the anode from reacting at the cathode.

Regarding claim 2, Juda teaches (as above) that the gas diffusion electrode divided the cathode compartment into a gas chamber (29) on one side of the gas diffusion electrode and an alkali metal hydroxide chamber (15) on the other side thereof. An alkali metal solution was introduced to the alkali metal hydroxide chamber at 21 and

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an oxygen containing gas was introduced to the gas chamber at 27 (not numbered in figure 2, but equivalent to 11).

Regarding claim 3, Juda teaches (as above) using a cation selective membrane.

Regarding claims 4-6 and 11, Wanngard teaches (see cols. 3-4) using a pH of the solution of 5.0-7.5, a chloride concentration of 30-200 g/l, a chlorate concentration of 300-650 g/l and a temperature of 40-100°C.

Regarding claim 7, Wanngard does not teach the claimed concentration of chlorate. However, it would have been obvious to one of ordinary skill in the art to have optimized the concentration of the chlorate being fed to the electrolyzer in order to maximize current efficiency and achieve optimum production rate for chlorate.

Regarding claim 8, Wanngard teaches (see col. 7, lines 5-8) using a minor addition of sodium chromate. It would have been obvious to one of ordinary skill in the art to have optimized the amount of chromate used.

Regarding claim 9, Juda teaches the electrolysis without the use of chromate.

Regarding claim 10, since Wanngard does not teach a divided cell, there is no disclosed concentration of sodium hydroxide. However, it would have been obvious to one of ordinary skill in the art to have optimized the concentration of the hydroxide being produced in the electrolyzer in order to achieve proper reaction rate.


Regarding claim 12, Wanngard teaches feeding sodium hydroxide to the chlorate reactor.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry D. Wilkins, III whose telephone number is 571-272-1251. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V. King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Harry D Wilkins, III  
Examiner  
Art Unit 1742

hdw